

1 AMY L. DOBBERTEEN  
Assistant Deputy Director, Bar No. 155111  
2 PATRICIA STURDEVANT  
Assistant Chief Counsel, Bar No. 54681  
3 LOTTE COLBERT  
Senior Counsel, Bar No. 207157  
4 CALIFORNIA DEPARTMENT OF  
MANAGED HEALTH CARE  
5 980 Ninth Street, Suite 500  
Sacramento, CA 95814-7243  
6 Telephone: (916) 323-0435

7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE  
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the:

11 Health Net of California, Inc.,  
12 Respondent.

) Enforcement Matter No.: 07-206

) **CONSENT AGREEMENT**

13  
14  
15 This Consent Agreement is made and entered into on this 16th day of November,  
16 2007 by and between HEALTH NET OF CALIFORNIA, INC., (Health Net) and the  
17 DEPARTMENT OF MANAGED HEALTH CARE (the Department) solely for the  
18 purpose of resolving the Department's findings that Health Net representatives did not  
19 appropriately disclose the existence of Health Net's bonus and incentive plan for  
20 employees in its underwriting department. Health Net's representations occurred during  
21 the Department's Non-Routine Medical Survey assessing its practices relating to  
22 rescission of individual health care coverage.

23 Health Net is a full service health care service plan, license number 933 0300,  
24 subject to the regulatory jurisdiction of the Department under the Knox-Keene Health  
25 Care Service Plan Act, Health and Safety Code, section 1340 et seq. (the Act).

26 In October of 2006, after receiving numerous complaints regarding rescissions of  
27 individual health care coverage, the Department initiated a Non-Routine Medical Survey  
28 to assess Health Net's compliance with section 1389.3 of the Act. The Department

FILED

NOV 16 2007

DEPARTMENT OF MANAGED HEALTH CARE

By [Signature]  
Filing Clerk

1 conducted interviews with Health Net management, staff, and counsel and reviewed key  
2 documents including policies, procedures, underwriting guidelines, and computer  
3 programs. On October 17, 2007, representatives of the Department's Survey Team  
4 conducted initial interviews of Health Net representatives and made inquiries whether  
5 incentives for employees in its underwriting department were tied to the number of  
6 rescissions completed. Health Net representatives affirmatively represented to the Survey  
7 Team that no such incentives existed. On November 6, 2007, the Survey Team again  
8 questioned Health Net representatives regarding bonuses, incentives, or additional  
9 compensation to its employees based on either the number of rescissions completed or  
10 the cost savings to Health Net arising from rescissions. Health Net representatives again  
11 failed to provide full information regarding these issues.

12 On November 8, 2007, following an Order requiring Health Net to produce Health  
13 Net's Senior Risk Analyst's Performance Evaluations and make them public in the *Bates*  
14 *v. Health Net* matter the Plan offered this information to the Department.

15 The Performance Evaluations disclosed that Barbara Fowler's compensation and  
16 bonus structure included consideration of the overall cost savings to Health Net resulting  
17 from pursuing misrepresentations in individual applications.

18 The Performance Evaluations confirm that Health Net's Senior Risk Analyst  
19 received a portion of her annual bonus for pursuing misrepresentations on individual  
20 applications that saved Health Net money by avoiding payment of claims.

21 The Department and Health Net agree that it is in the best interests of Health Net  
22 to enter into this Consent Agreement, and thereby settle the above-referenced findings  
23 that Health Net failed to appropriately disclose the existence of its bonus and incentive  
24 plan to the Department in violation of section 1386(b)(7) of the Act. This Consent  
25 Agreement is limited solely to Health Net's misrepresentations to the Department and has  
26 no effect on any other aspect of the Non-Routine Medical Survey currently underway, or  
27 any other pending enforcement matters alleging violations of the Act.  
28

1 NOW, THEREFORE, the Department of Managed Health Care and Health Net of  
2 California mutually agree to enter into this Consent Agreement, as follows:

3 A. Health Net shall not award performance bonuses, incentives, or any other  
4 compensation that is tied in any way to the number of rescissions completed during a  
5 certain time period, and/or the resulting cost savings to Health Net.

6 B. Health Net acknowledges the Department's findings and agrees to pay an  
7 administrative penalty in the amount of \$1 million, via electronic payment, to settle this  
8 matter.

9  
10 Dated: November 16, 2007  
11

12  
13 By: Patricia Sturdevant  
14 PATRICIA STURDEVANT  
15 Assistant Chief Counsel  
16 Department of Managed Health Care

17 By: Stephen Lynch  
18 Stephen Lynch  
19 President  
20 Health Net of California  
21  
22  
23  
24  
25  
26  
27  
28